
PRELIMINARY DRAFT

No. 3506

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2004 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 22-11-14-1; IC 22-11-14-2; IC 22-11-14.5.

Synopsis: Indoor pyrotechnics and fireworks. Requires the fire prevention and building safety commission to adopt rules: (1) for the issuance of permits for supervised public displays of fireworks; and (2) to implement a statewide code for the display of indoor pyrotechnics. Requires at least \$500,000 of personal injury and \$500,000 of property damage insurance coverage for a supervised display of indoor pyrotechnics under certain circumstances. Provides that: (1) a violation of the rules concerning the display of indoor pyrotechnics is a Class C infraction; (2) a knowing or reckless violation of the rules that results in serious bodily injury to a person is a Class D felony; and (3) a knowing or reckless violation of the rules that results in death is a Class C felony. Makes conforming changes.

Effective: Upon passage; July 1, 2004.



A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-11-14-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this
3 chapter **and IC 22-11-14.5:**

4 "Auto burglar alarm" means a tube that contains pyrotechnic
5 composition that produces a loud whistle or smoke when ignited. A
6 small quantity of explosive, not exceeding fifty (50) milligrams, may
7 also be used to produce a small report. A squib is used to ignite the
8 device.

9 "Booby trap" means a small tube with string protruding from both
10 ends, similar to a party popper in design. The ends of the string are
11 pulled to ignite the friction sensitive composition, producing a small
12 report.

13 "Chaser" means a device, containing fifty (50) milligrams or less of
14 explosive composition, that consists of a small paper or cardboard tube
15 that travels along the ground upon ignition. A whistling effect is often
16 produced, and a small noise may be produced.

17 "Cigarette load" means a small wooden peg that has been coated
18 with a small quantity of explosive composition. Upon ignition of a
19 cigarette containing one of the pegs, a small report is produced.

20 "Common firework" means a small firework that is designed
21 primarily to produce visible effects by combustion, and that is required
22 to comply with the construction, chemical composition, and labeling
23 regulations promulgated by the United States Consumer Product Safety
24 Commission under 16 CFR 1507. The term also includes some small
25 devices designed to produce an audible effect, such as whistling
26 devices, ground devices containing fifty (50) milligrams or less of
27 explosive composition, and aerial devices containing one hundred
28 thirty (130) milligrams or less of explosive composition. Propelling or
29 expelling charges consisting of a mixture of charcoal, sulfur, and
30 potassium nitrate are not considered as designed to produce an audible
31 effect. Common fireworks:



(1) include:

(A) ground and hand-held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;

(B) aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(C) ground audible devices, which include firecrackers, salutes, and chasers; and

(D) firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses; and

(2) do not include the following novelties and trick noisemakers:

(A) Snakes or glow worms.

(B) Smoke devices.

(C) Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

"Dipped stick" or "wire sparkler" means a common firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers ~~which that~~ contain no magnesium and ~~which that~~ contain less than one hundred (100) grams of composition per item are not included in the category of common fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when



1 ignited.

2 "Firecracker" or "salute" is a device that consists of a small
3 paper-wrapped or cardboard tube containing not more than fifty (50)
4 milligrams of pyrotechnic composition and that produces, upon
5 ignition, noise, accompanied by a flash of light.

6 "Firework" means any composition or device designed for the
7 purpose of producing a visible or audible effect by combustion,
8 deflagration, or detonation. Fireworks consist of common fireworks and
9 special fireworks. The following items are excluded from the definition
10 of fireworks:

- 11 (1) Model rockets.
- 12 (2) Toy pistol caps.
- 13 (3) Emergency signal flares.
- 14 (4) Matches.
- 15 (5) Fixed ammunition for firearms.
- 16 (6) Ammunition components intended for use in firearms, muzzle
17 loading cannons, or small arms.
- 18 (7) Shells, cartridges, and primers for use in firearms, muzzle
19 loading cannons, or small arms.
- 20 (8) Indoor pyrotechnics special effects material.

21 "Flitter sparkler" means a narrow paper tube filled with pyrotechnic
22 composition that produces color and sparks upon ignition. These
23 devices do not use a fuse for ignition, but rather are ignited by igniting
24 the paper at one (1) end of the tube.

25 "Ground spinner" means a small spinning device ~~which~~ **that** is
26 similar to wheels in design and effect when placed on the ground and
27 ignited, and ~~which~~ **that** produces a shower of sparks and color when
28 spinning.

29 "Helicopter" or "aerial spinner" is a spinning device:

- 30 (1) that consists of a tube up to one-half (1/2) inch in inside
31 diameter and that contains up to twenty (20) grams of pyrotechnic
32 composition;
- 33 (2) to which some type of propeller or blade device is attached;
34 and
- 35 (3) that lifts into the air upon ignition, producing a visible or
36 audible effect at the height of flight.

37 "Illuminating torch" means a cylindrical tube that:

- 38 (1) contains up to one hundred (100) grams of pyrotechnic
39 composition;
- 40 (2) produces, upon ignition, a colored fire; and
- 41 (3) is either a spike, base, or handle-type device.

42 "Importer" means:

- 43 (1) a person who imports fireworks from a foreign country; or
- 44 (2) a person who brings or causes fireworks to be brought within
45 this state for subsequent sale.

46 "Indoor pyrotechnics special effects material" means a chemical



material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 ~~(1992 edition)~~: **(2001 edition)**).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks not approved for sale in Indiana.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

"Sky rocket" means a device that:

(1) consists of a tube that does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) contains a wooden stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.



1 "Smoke device" means a tube or sphere containing pyrotechnic
2 composition that produces white or colored smoke upon ignition as the
3 primary effect.

4 "Snake" or "glow worm" means a pressed pellet of pyrotechnic
5 composition that produces a large, snake-like ash upon burning. The
6 ash expands in length as the pellet burns. These devices do not contain
7 mercuric thiocyanate.

8 "Snapper" means a small, paper-wrapped item containing a minute
9 quantity of explosive composition coated on small bits of sand. When
10 dropped, the device explodes, producing a small report.

11 "Special fireworks" means fireworks designed primarily to produce
12 visible or audible effects by combustion, deflagration, or detonation,
13 including firecrackers containing more than one hundred thirty (130)
14 milligrams of explosive composition, aerial shells containing more than
15 forty (40) grams of pyrotechnic composition, and other exhibition
16 display items that exceed the limits for classification as common
17 fireworks.

18 "Trick match" means a kitchen or book match that has been coated
19 with a small quantity of explosive or pyrotechnic composition. Upon
20 ignition of the match, a small report or a shower of sparks is produced.

21 "Trick noisemaker" means an item that produces a small report
22 intended to surprise the user.

23 "Wheel" means a pyrotechnic **composition** device that:

- 24 (1) is attached to a post or tree by means of a nail or string;
- 25 (2) contains up to six (6) driver units (tubes not exceeding
- 26 one-half (1/2) inch in inside diameter) containing up to sixty (60)
- 27 grams of composition per driver unit; and
- 28 (3) revolves, upon ignition, producing a shower of color and
- 29 sparks and sometimes a whistling effect.

30 "Wholesaler" means a person who purchases fireworks for resale to
31 retailers.

32 SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The fire
34 prevention and building safety commission **may shall:**

35 (1) adopt rules **under IC 4-22-2** for the granting of permits for
36 supervised public displays of fireworks by municipalities, fair
37 associations, amusement parks, and other organizations or groups
38 of individuals; ~~The fire prevention and building safety~~
39 ~~commission created under IC 22-12-2 shall and~~

40 (2) establish by rule the fee for the permit, ~~A fee collected for a~~
41 ~~permit which~~ shall be paid into the fire and building services fund
42 created under IC 22-12-6-1.

43 (b) The application for ~~any~~ a permit **required under subsection (a)**
44 must:

- 45 (1) name a competent operator who is to officiate at the display;
- 46 ~~together with~~ (2) **set forth** a brief resume of the operator's



experience;

(3) be made in writing; and

(4) be received with the applicable fee by the office of the state fire marshal at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator ~~to be~~ approved by the chief of the fire department of the municipality in which the display is to be held. ~~and A display~~ shall be so located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department of the city or town in which the display is to be held; or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case the exhibit or of a display is sought to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person. Applications for permits must be made in writing at least fifteen (15) days in advance of the date of display.

(d) A permit granted under this section is not transferable.

~~(b) A municipality may adopt an ordinance concerning the conducting and display of indoor pyrotechnics. However, an ordinance adopted under this subsection may not be more lenient than a rule adopted by a state agency.~~

~~(c) A municipality or an organization that obtains a permit for an indoor pyrotechnics display from a local governmental entity is not required to obtain a permit approved by the state fire marshal.~~

~~(d)~~ **(e)** A person who possesses, transports, or delivers fireworks, except as authorized under this section, commits a Class A misdemeanor.

SECTION 3. IC 22-11-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 14.5. Indoor Pyrotechnics

Sec. 1. As used in this chapter, "indoor pyrotechnics" means controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume (as provided in National Fire Protection Association Standard 1126 (2001 edition)). The term does not include the following novelties and trick noisemakers:

(1) Snakes or glow worms.

(2) Smoke devices.

(3) Wire sparklers that do not contain magnesium and that contain less than one hundred (100) grams of composition per



1 item.

2 (4) Trick noisemakers, which include party poppers, booby
3 traps, snappers, trick matches, cigarette loads, and auto
4 burglar alarms.

5 Sec. 2. As used in this chapter, "responding fire department"
6 means the paid fire department or volunteer fire department that
7 renders fire protection services to a political subdivision.

8 Sec. 3. The fire prevention and building safety commission shall
9 adopt rules under IC 4-22-2 and IC 22-13-2.5 to implement a
10 statewide code concerning displays of indoor pyrotechnics. The
11 rules:

12 (1) must require that a certificate of insurance be issued that
13 provides general liability coverage of at least five hundred
14 thousand dollars (\$500,000) for the injury or death of any
15 number of persons in any one (1) occurrence and five hundred
16 thousand dollars (\$500,000) for property damage in any one
17 (1) occurrence by an intended display of indoor pyrotechnics
18 arising from any acts of the person to whom the permit is
19 issued or the person's agents, employees, or subcontractors;
20 (2) must require the person intending to present the display,
21 at least twenty four (24) hours before the time of the display,
22 to give written notice of the intended display to the chief of the
23 responding fire department of the location proposed for the
24 display of the indoor pyrotechnics and to include with the
25 written notice a certification from the person intending to
26 display the indoor pyrotechnics that the display will be made
27 in accordance with:

28 (A) the rules adopted under this section; and

29 (B) any ordinance or resolution adopted under section 4 of
30 this chapter;

31 (3) must include and adopt NFPA 1126, Standard for the Use
32 of Pyrotechnics before a Proximate Audience, 2001 Edition,
33 published by the National Fire Protection Association, 1
34 Batterymarch Park, Quincy, Massachusetts 12269;

35 (4) must be amended to adopt any subsequent edition of
36 NFPA Standard 1126, including addenda, within eighteen (18)
37 months after the effective date of the subsequent edition; and
38 (5) may provide for amendments to NFPA Standard 1126 as
39 a condition of the adoption under subdivisions (3) and (4).

40 Sec. 4. A city, town, or county may adopt an ordinance or a
41 township may adopt a resolution that:

42 (1) establishes requirements for displays of indoor
43 pyrotechnics more stringent or detailed than the requirements
44 established under this section; or

45 (2) bans the display of indoor pyrotechnics.

46 Sec. 5. Except as provided in section 4 of this chapter, the rules



adopted under section 3 of this chapter take precedence over:

- (1) an ordinance adopted by a city, town, or county; or
- (2) a resolution adopted by a township;

that covers the same subject matter as the commission's rules concerning indoor pyrotechnics.

Sec. 6. A person who violates a rule adopted under this chapter commits a Class C infraction.

Sec. 7. A person who allows another to commit a violation of a rule adopted under this chapter commits a Class C infraction if the violation is committed on property under the person's control.

Sec. 8. Each day that an infraction under this chapter occurs constitutes a separate infraction.

Sec. 9. A person who causes serious bodily injury to a person as a result of a knowing or reckless violation of a rule adopted under this chapter commits a Class D felony.

Sec. 10. A person who causes the death of a person as a result of a knowing or reckless violation of a rule adopted under this chapter commits a Class C felony.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) It is the intent of the Indiana general assembly that a standard known as NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 12269, be incorporated into the Indiana Administrative Code, as required by IC 22-11-14.5-3, as added by this act.

(b) 675 IAC 22-2.2-25(b)(1), with respect to NFPA 1126, is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove the reference to NFPA 1126 in 675 IAC 22-2.2-25(b)(1) from the Indiana Administrative Code.

(c) The fire prevention and building safety commission shall carry out the duties imposed upon it under IC 22-11-14.5, as added by this act, under interim guidelines approved by the executive director of the fire and building services department.

(d) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 22-11-14.5-3, as added by this act.
- (2) December 31, 2005.

SECTION 5. An emergency is declared for this act.

